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Attorneys for Plaintiff FLIR Systems, Inc.

**IN THE UNITED STATES DISTRICT COURT**

**DISTRICT OF OREGON**

**PORLTAND DIVISION**

**FLIR SYSTEMS, INC.**, an Oregon  
corporation,

Civil No.: 3:10-cv-00231-BR

Plaintiff,

vs.

**THOMAS L. GAMBARO**, an individual  
d/b/a **PATENT ENFORCEMENT  
COMPANY; MOTIONLESS  
KEYBOARD COMPANY**, an Oregon  
corporation.

**PLAINTIFF'S MOTION FOR  
PARTIAL SUMMARY JUDGMENT  
THAT DEFENDANT THOMAS L.  
GAMBARO IS BOUND BY '322  
PATENT CLAIM CONSTRUCTION  
IN PRIOR ACTION**

Defendants.

**LR 7-1(a) CERTIFICATION**

The undersigned counsel certifies that the parties have made a good faith effort through a personal conference to resolve the dispute and have been unable to do so.

**Motion for Partial Summary Judgment**

Plaintiff FLIR Systems, Inc. (“FLIR”) files this Motion for Partial Summary Judgment that Defendant Thomas L. Gambaro d/b/a/ Patent Enforcement Company is Bound by ‘322 Patent Claim Construction in Prior Action (the “Motion”) under Federal Rule of Civil Procedure 56(a) and Local Rule 56-1 with respect to the matters set forth below as follows:

FLIR requests that the Court: (1) grant its motion for partial summary judgment; (2) hold that Defendant Thomas L. Gambaro d/b/a/ Patent Enforcement Company is bound by the order and judgment entered in *Motionless Keyboard Co. v. Microsoft Corp.*, No. Civ. 04-180-AA, formerly pending in the United States District Court, District of Oregon, Eugene Division before the Honorable Ann L. Aiken (the “Prior Action”); and (3) award FLIR such other and further relief to which they are justly entitled and which the Court deems just and proper.

This motion is supported by Plaintiff’s Concise Statement of Material Facts in Support of Plaintiff’s Motion for Partial Summary Judgment, the Memorandum of Law in Support of Plaintiff’s Motion for Partial Summary Judgment, the Declaration of Susan Marmaduke in Support of Plaintiff’s Concise Statement of Material Facts in Support of Plaintiff’s Motion for Partial Summary Judgment, and the Declaration Farooq A. Tayab in Support of Plaintiff’s Concise Statement of Material Facts in Support of Plaintiff’s

Motion for Partial Summary Judgment, which are filed contemporaneously with this motion.

DATED this 17th day of September, 2010.

**BICKEL & BREWER**

William A. Brewer, III, *Admitted Pro Hac Vice*  
Michael J. Collins, *Admitted Pro Hac Vice*  
Farooq A. Tayab, *Admitted Pro Hac Vice*

**HARRANG LONG GARY RUDNICK PC**

By: /s/ Susan D. Marmaduke  
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Of Attorneys for Plaintiff FLIR Systems,  
Inc.

## CERTIFICATE OF SERVICE

I certify that on September 17, 2010, I served or caused to be served a true and complete copy of the foregoing **PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT THAT DEFENDANT THOMAS L. GAMBARO IS BOUND BY '322 PATENT CLAIM CONSTRUCTION IN PRIOR ACTION** on the party or parties listed below as follows:

- Via CM / ECF Filing
- Via First Class Mail, Postage Prepaid
- Via Email
- Via Personal Delivery

Thomas L. Gambaro  
individually and dba  
Patent Enforcement Company  
and Motionless Keyboard Company  
P.O. Box 14741  
Portland, OR 97293

Defendants *Pro Se*

James M. Buchal, Esq.  
Murphy & Buchal  
2000 SW 1st Avenue, Suite 420  
Portland, OR 97201

Counsel for Defendant Motionless  
Keyboard Company

## HARRANG LONG GARY RUDNICK P.C.

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